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EXAMINER

GOLDMAN, MICHAEL H

ART UNIT

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11/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/632,557	Applicant(s) LU ET AL.	
	Examiner MICHAEL GOLDMAN	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a Final Office Action in response to communications received July 21, 2009. Claims 1-13 and 16-17 have been amended. Claim 14 has been previously cancelled and currently Claim 15 has been cancelled. Claims 21-25 have been added. Therefore, claims 1-13 and 16-25 are pending and addressed below.

Claim Rejections - 35 USC § 101

2. The rejection under 35 U.S.C. 101 is hereby withdrawn based on the amendment to Claims 1 and 2 submitted on July 21, 2009.

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1, 2, 4-9, 11 and 13, 16-25 are rejected under 35 U.S.C. 103(a) as being anticipated by Kraft (20040098377) in view of Catan (6491217).

Claim 1: Kraft discloses a system and method of real-time price comparisons *searching* for multi-variable information relating to prices by sellers of a selected product, where the multi-variable information includes at least two of the following: a stated price, a coupon or discount applicable to the selected product, a measure of quality for an available item of that selected product, a measure of reputation for a selected seller or manufacturer of that selected product, a shipping cost or type, a tax imposed on purchase of the selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using **complex search criteria** , which examiner interprets as **multi-variable information**; and examiner also interprets complex as at least two of the above criteria; e.g. reputation for service and (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0017] line 9 better shipping terms, hence at least two criteria, including measure of quality and shipping cost or type, are explicitly stated, all other criteria are implied by the **complex search criteria** method));

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presenting a price in association with that selected product (see page 2 [0027] lines 6-7 whereby the nodes (defined as computer/server or gateway representing a merchant) that wish to respond return the request (by buyer using complex search criteria) with their offer, construed by examiner as presenting that effective price, and a URL to the product site);

populating a database with that multi-variable information in response to said searching (see paragraph [0012], lines 1-10 whereby sellers enter (populate) price [price update] information for products or services to an existing product/price database and whereby a user/buyer can enter specific search requests using complex (multi variable) search criteria).

However, Kraft fails to disclose *determining* at least one connection parameter related to or affecting time involved in searching information relating to prices by sellers and computing and presenting an effective price for the selected product in response to that multi variable information.

However, Catan discloses the feature of determining at least one connection parameter related to or affecting time involved in searching information relating to prices by sellers (see [0011], lines 1-13 whereby the adaptive search using a peer-to-peer network (implicitly reducing search time via 'peer-to-peer' as one parameter, creating an active marketplace with real-time [features or criteria] (parameters affecting time involved in searching information) comparisons).

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Both Kraft and Catan disclose a system and method for managing dynamic pricing information via search engine(s). Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include the feature as taught by Catan of reducing search time via incorporation of the feature/criteria/parameter constraint of 'real-time via 'peer to peer' in order to enable transactions to be completed more quickly via elimination of untimely responses.

Claim 2: Kraft discloses a system and method of real-time price comparisons searching for multi-variable information relating to prices by sellers of a selected product including the steps of

determining at least one connection parameter related to or affecting time involved in searching information relating to prices by sellers, said parameter including pre-fetched information (see [0012], lines 1-4 whereby via a graphical user interface with electronic forms or use of a gateway to provide access to an existing product/price database; the peer-to-peer node coordinates connectivity with other peers (examiner interprets the peer to peer node coordination connectivity as at least once connection parameter));

searching for stated prices provided by sellers of a selected product (see page 1 [0012] lines 5-7 whereby a user/buyer, on a network, can enter specific search requests using *complex search criteria*; also see [0027], lines 3-7 whereby system searches for the lowest available price and receiving offers from suppliers);

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presenting that a price in association with that selected product (see [0027] lines 6-7 whereby the nodes (representations of sellers) return the request (for selected product) with their offer, construed by examiner as effective price).

However, Kraft fails to disclose the features of an effective price and applying those discounts and presenting the effective price and said connection parameter comprising one or more of a time-to-live indication, a multiple connection indication, pre-fetched price information, pre-opened connections, pre-search products, and a dead link indication.

Catan discloses the features of a connection parameter comprising a time-to-live indication (see column 7, line 30 'user can be given (presented an applied) discounted (effective) price, and see column 29, lines 5-18 'time-to-live').

Both Kraft and Catan disclose a system and method for managing dynamic pricing information via search engine(s). Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include the feature as taught by Catan of reducing search time via incorporation in the search engine taxonomy a time-to-live constraint in order to enable transactions to be completed more quickly.

Claims 4/1 and 4/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of filtering information regarding sellers of offering the selected product in response to at least one restriction selected by a potential buyer (see page 1 [0012] lines 5-7 whereby a user/buyer, on a

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network, can enter specific search requests using *complex search criteria*, which examiner construes as filtering information regarding sellers of offering the selected product in response to at least one restriction/criteria by a potential buyer).

Claims 5/1 and 5/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of obtaining at least some of that multi-variable information from a source other than a potential seller of that selected product (see page 5 [0077] lines 1-4 whereby the user at node B (seller B) may investigate the credibility of the merchant at node C (seller C) and find that the merchant at node C has a reputation for poor service or unethical business practices).

Claims 6/1 and 6/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature including steps of sorting information regarding sellers of offering the selected product in response to price (see FIG 3B whereby 350 returns query results to query engine 355 which sorts sellers offers against buyer criteria, 360).

Claims 7/1 and 7/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature wherein a search restriction is selected by a potential buyer, that search restriction including at least one of: a maximum effective price, a minimum measure of quality, a minimum measure of reputation, a minimum shipping type, a maximum amount of product ordered (see page 1 [0012] lines 5-7

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whereby a user/buyer, on a network, can enter specific search requests using *complex search criteria*, which examiner construes as search restrictions; and examiner also construes complex as at least one of the above criteria; e.g. reputation for service (see page 5 [0077] lines 3-4 reputation for service or unethical business practices; see page 2 [0022 line 2 shipping, etc. as criteria; hence at least two criteria are explicitly stated, all other criteria are clearly implied by the *complex search criteria* method)).

Claims 8/1, 8/2, 9/1, and 9/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. However, they fail to disclose the feature wherein at least some of that multi-variable information is entered from an offline source and searching for a first element of the multi-variable information and searching independently for a second element of the multi-variable information.

Catan discloses the feature of implementing offline data transfer operations according to various embodiments (see column 7, lines 50-54 (offline data transfers) and column 7, lines 22-24 and column 6, lines 20-25 whereby the database can link user-profile information to search for multi-variable information to increase the relevancy of (search) responses, also see column 6, lines 39-46 whereby receiving a menu (search request) with several options (first, second element etc.) being included in the transmission, examiner interprets a menu with several options as multi-variable information with more than one element whereby the search engine searches each of these elements 'to increase the relevancy of responses')

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Kraft and Catan disclose a method of searching discount/coupon incentive information. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include the methods of 'offline' data transfers, and multi-variable information as taught by Catan, in order for the buyer to have more relevant information relating to purchase decisions.

Claims 11/1 and 11/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Kraft further discloses the feature wherein discounts include at least one of: a reduction in shipping cost, an upgrade in shipping type without associated increase in price, and wherein those discounts are either unconditional or conditional on an amount of product ordered (see page 2 [0017] lines 8-9 whereby subsequent to the peer-to-peer network offers, the merchant responds to the buyer with a lower price or better shipping terms, examiner construes better shipping terms as an upgrade in shipping type without associated increase in price).

Claims 13/1 and 13/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Neither Kraft nor Catan explicitly disclose the feature wherein the steps of searching also include information relating to products not exactly equal to the selected product and they fail to disclose a 'degree of match' parameter.

However, examiner takes Official Notice that making recommendations with respect to 'degrees of similarity between individual items' is old and well known in the art (e.g. see Linden et al. (6,266,649) abstract, lines 1-15, note Amazon.com as

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assignee, also see column 1, lines 23-32 whereby a 'technique commonly used by recommendations services is known as content-based filtering,... which based upon an analysis of item content, attempt to identify items which are similar items that are known to be of interest to the user...and then use this profile to *search* for other web pages (other products) that include some or all of the content).

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to use these old and well known resources. One would have been motivated to do so in order to provide more choices to consumers thereby increasing the transaction rate.

Claims 16/1, 16/2, 17/1, 17/2, 18/1, and 18/2: Kraft and Catan disclose the invention as in claims 1 and 2 above. Neither Kraft nor Catan explicitly disclose the features wherein connection parameters are measured and reported to users.

However, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to measure and report connection parameters to the users, wherein the connection parameters comprise connection reliability information, the number of transactions information indication; and/or frequency of transactions information.

One would have been motivated to do so in order to encourage customers/users to use the system more often by building confidence in customers via meaningful statistics feedback on their searches. (See 'Response to Arguments' below).

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Claims 19/1 and 19/2: Kraft and Catan disclose the invention as in claims 1 and 2 above and Kraft further discloses caching the multi-variable information and the connection parameter before receiving a request from a user to present the effective price (see [0003, lines 10-16 whereby the crawler is run periodically to update previously stored data and is stored in a metadata repository or database. The search engines search this repository to identify matches for the shopper-defined search rather than attempt to find matches in real time, examiner interprets this process as caching the multi-variable information and the connection parameter before receiving a request from a user to present the effective price).

Claims 20/13/1 and 20/13/2: Kraft and Catan disclose the invention as in claims 13/1 and 13/2 above. While Kraft fails to explicitly disclose the feature wherein the information relating to products not exactly equal to the selected product is responsive to a degree-of-match parameter, Kraft does disclose in paragraph [0017], lines 1-12 whereby one or more search criteria (parameters) are found, for example the merchant responds to the buyer with [modified terms such as a lower price, shipping terms etc]. Examiner interprets this adaptive search as a degree-of- match parameter when the product/service found with less than the user initial search criteria).

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to include a feature wherein the information relating to products not exactly equal to the selected product is responsive to a degree-of-match parameter.

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One would have been motivated to do so in order to encourage customers/users to use the system more often via the increase number of selections available to satisfy their search criteria.

Claim 21: Kraft and Catan disclose the invention as in claim 1 above. Kraft fails to explicitly disclose the feature wherein the connection parameter is a dead link indication.

However Catan discloses determining, searching, populating a database and computing and presenting an effective price in association with a selected product wherein the connection parameter is a dead link indication (see column 27, lines 2-20 whereby the user be interested in certain results (price/product information) and whereby the user chooses to defer delivery of the resource, the procedure may be implemented causing a delay for the arrival of a good time until either the action (price/product information) is completed or some event such as the expiration of the time to live (dead link) whereupon the resource retrieval and delivery process is terminated).

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Kraft to include a feature wherein the connection parameter is a dead link indication.

One would have been motivated to do so in order to allow the customers/users to defer delivery of the resource until a more appropriate time.

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Claim 22: Kraft and Catan disclose the invention as in claim 1 above. Kraft further discloses the feature wherein the connection parameter includes multiple connection information (see Fig 4, and [0032] whereby Fig 4 represents a schematic illustration of the operation of the distributed comparison shopping system (inherently multiple connection information)).

Claim 23, 24 and 25: Kraft and Catan disclose the invention as in claim 1 above. Kraft further discloses the feature wherein the pre-fetched information includes a pre-fetched price and pre-search products (see paragraph [0012], lines 1-4 whereby sellers enter price information for products or services with electronic forms or use a gateway (pre-opened connection) to provide access to an existing product/price database (examiner interprets this [pre opened] gateway access to an existing product/price database as providing pre-fetched price and pre-fetched product information, also see paragraph [0025] , lines 1-5 whereby the system does not require price crawlers because the connection between merchant and customer is 'real time', examiner again interprets this 'real time' response as equivalent to pre-opened connections with pre-fetched price/product information)).

5. Claims 3/1 and 3/2 are rejected under 35 U.S.C. 103(a) being anticipated by Kraft (20040098377) in view of Caton (6491217) as applied to Claims 1 and 2 above and further in view of HERZ et al. (20010014868).

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Claims 3/1 and 3/2: Kraft and Catan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature whereby *aggregating and presenting* to buyer the aggregated information regarding sellers offering the selected product.

HERZ et al. discloses a system and a method using a search engine whereby offers with similar profiles are grouped together, examiner construes grouping as aggregating (see page 2, [0006], lines 1-2).

Kraft and Catan, and HERZ disclose a method of searching and offering discounts via a search engine. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the invention of Kraft to include grouping and presenting offers with similar profiles, as taught by HERZ, in order for the buyer to have more relevant information relating to purchase decisions.

6. Claims 10/1 and 10/2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (20040098377) in view of Caton (6491217) as applied to Claims 1 and 2 above and further in view of LOHSE (20030069785).

Claims 10/1 and 10/2: Kraft and Catan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature wherein discounts include at least *one of: a fixed reduction in price, a percentage reduction in price, or a reduction in price contingent on an amount of product ordered.*

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LOHSE discloses a method for substantially instant electronic generation of volume discount coupons based on projected total dollar amounts consumers spend (see abstract lines 1-3 whereby examiner construes volume discount coupons as reduction in price contingent on an amount of product ordered).

Kraft and Catan, and LOHSE disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the search method of the combination of Kraft and Catan to include the volume discounts as taught by LOHSE in order to provide buyers with the lowest effective price.

7. Claims 12/1 and 12/2 are rejected under 35 U.S.C. 103(a), as applied to claims 1 and 2, as being unpatentable over Kraft (20040098377) in view of Catan(6491217) as applied to Claims 1 and 2 above and further in view of Schierholt (20050149377).

Claims 12/1 and 12/2: Kraft and Catan disclose the invention as in claim 1 and 2 above. However, they fail to disclose the feature whereby the steps of searching also include information relating to packages of products including the selected product; and the computed effective price is responsive to a minimum effective price for those packages of products.

Schierholt discloses the method whereby information relating to packages of products including the selected product and the computed effective price is responsive to a minimum effective price for those packages of products (see Page 2 [0015]

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whereby from an original customer product order, identifying at least one potential bundled product package containing more than the requested product order; also see [0016] whereby the special price may be a discount price that is determined according to a pricing and discount strategy; examiner construes special price as the computed effective price in response to buyer price request).

Kraft and Catan and Schierholt disclose a method for electronic commerce between buyers and sellers providing the lowest effective pricing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to modify the engine search method of the invention of Kraft, to include the bundled product package as taught by Schierholt in order to provide buyers with the lowest effective price.

Response to Arguments

8. Applicant's arguments filed July 21, 2009 have been fully considered but they are not persuasive

a. Applicant argues for Claim 1 that '...neither Kraft, nor Catan disclose or suggest searching for such information responsive to such connection parameters so as to reduce search time and populating a database in response to the searching.'

Examiner respectfully disagrees, see the revised rejection based upon the current amendment to the claim, repeated here as follows: 'populating a database with that multi-variable information in response to said searching (see paragraph [0012], lines 1-10 whereby sellers enter (populate) price [price update] information for products or services to an existing product/price database and whereby a user/buyer can enter

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specific search requests using complex (multi variable) search criteria)' and Catan further discloses the features of an effective price and connection parameter comprising a time-to-live indication [a connection parameter related to or affecting time involved in searching information] so as to reduce search time (see column 7, line 30 'discounted (effective) price, and see column 29, lines 5-18 'time-to-live' (connection parameter comprising a time to live indication) examiner interprets the use of tools such as 'time-to-live' restrictions as implicitly reducing the search time (in conjunction with searching for user parameters)').

b. Applicant argues for Claims 16, 17 and 18 that "'Designer preference' presumably are different means to accomplish the same result. Here, the text of claims 16-19 accomplish different results because they each uniquely limit the connection parameter and affect the operation of claims 1 and 2..."; Examiner respectfully disagrees, since the desired 'result' is interpreted as providing confidence to the user/customer in the results of the search(s), although the search results may vary as a function of the input parameters, the customer confidence is the 'result' being sought, regardless of the actual product/service search result.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL H. GOLDMAN whose telephone number is (571)270-5101. The examiner can normally be reached on Monday thru Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on 571-272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mhg
October 21, 2009

/James W Myhre/
Primary Examiner, Art Unit 3688